

# The Days of Our Bankruptcy Court Lives

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Excluding intermediate Saturdays,  
Sundays, and legal holidays when  
the period is less than 8 days but  
otherwise we count every day

# Why?

- Fed. Rule Bank. P. 9006(a)

Less than 8 days, exclude intermediate Saturdays, Sundays, and legal holidays in counting when something must be done

# Is This a Problem?

- If a seven-day period and an eight-day period start on the same day, which one ends first under the rules?

# It's Relative!

## ■ Under Current Rules

- 8 days usually last 8 days
- 7 days NEVER last just 7 days
- 7 days always last at least 9 days
- 8 times a year 7 days can last 10 days
- Once per year 7 days can last 11 days

# Time Computation Project

## “Days are Days”

- To simplify time computation provisions and to eliminate the inconsistencies found in the Appellate, Bankruptcy, Civil & Criminal Rules
- Public Comment through February 15, 2008
- Passed by JCUS September 2008
- Approved by Supreme Court March 26, 2009
- Promulgated December 1, 2009

# Application?

- Apply to all pending actions unless infeasible or would work injustice
- If infeasible or unjust, apply the former rule

Rules Enabling Act, 28 U.S.C. § 2074

# Intent

- New Time Computation Rules, so no <8 day distinction
- Amended Federal Rules to conform to current use (unless unjust/unfair)
- Adopt multiples of 7 as a deadline numbering convention for shorter periods
  - ( e.g., 7, 14, 21 & 28)



# Under New Rule 9006(a) Effective 12/1/09

In computing time in any Bankruptcy Rule, local rule or court order, or in any statute *that does not specify a method of computing time*

- *Exclude the day that triggers the period and*
- *Count every day thereafter, including intermediate Saturdays, Sundays, and legal holidays*

# Now v. Then

- |  |  |
|--|--|
| ■ Bank. Rule 1007(a)(2) <ul style="list-style-type: none"><li>• <u>15</u> days to file list</li></ul>          | ■ Bank. Rule 1007(a)(2) <ul style="list-style-type: none"><li>• <u>14</u> days to file list</li></ul>          |
| ■ Bank. Rule 8002(a) <ul style="list-style-type: none"><li>• <u>10</u> days to file notice of appeal</li></ul> | ■ Bank. Rule 8002(a) <ul style="list-style-type: none"><li>• <u>14</u> days to file notice of appeal</li></ul> |

# Now v. Then

- Bank. Rule 2007 (b)(1)
  - 5 days' notice
- Bank. Rule 2007 (b)(1)
  - 7 days' notice
- Bank. Rule 3017 (f)(1)
  - 25 days' notice
- Bank. Rule 3017 (f)(1)
  - 28 days' notice

# Final Day on a Weekend or Holiday

The period continues to run until the  
“next day that is not a Saturday,  
Sunday or legal holiday”

# “Next Day” Calculated by

- Continuing to Count forward-when period measured after an event
- Continuing to Count backward-when period measured before an event
  - e.g., 14 days before trial

# Legal Holidays

- Rule is largely unchanged
  - Enumerated holidays in the rule

Or

- Days declared by President, Congress or, for forward-counted periods, the state in which the court sits



# What About Hours?

Same basic concept applies:

Begin counting immediately  
and

Count every hour thereafter, including  
intermediate Saturdays, Sundays, and  
legal holidays

# Final Hour on a Weekend or Holiday

The period continues to run until the same time on the next  
“day that is not a Saturday, Sunday or legal holiday ”



# Clerk's Office Inaccessible?

- Last Day of Filing:
  - Time extended to first accessible day that's not a weekend or legal holiday

## Last Hour of Filing:

- Time extended to same time on first accessible day that's not a weekend or legal holiday

# “Last Day” Ends

- Electronic Filing
  - for e-filing in the court, at midnight in court's time zone
  - for e-filing in court of appeals, at midnight in time zone of circuit clerk's principal office
- Other Filing - when clerk's office is scheduled to close